

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Order Instituting
Investigation and Order to Show Cause on the
Commission's Own Motion into the Operations
and Practices of Ronen Perez, an individual,
Ford Moving and Storage, Inc., a California
Corporation, and its President, Ronen Perez,

Applicant, Respondents.

Investigation 04-04-001
(Filed April 1, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING GRANTING
REQUEST TO FOREGO HEARINGS, ENTERING EXHIBITS,
AND SETTING BRIEFING GUIDELINES AND SCHEDULE**

This ruling (1) grants, in part, respondents' August 13, 2004 "Motion to Withdraw the Application Pending; Forego Hearings; and Waive Objections on Documents Submitted by CPUC", (2) provides procedural direction on how respondent can withdraw his pending application, (3) admits respondent's declaration and the testimony of the Commission's Consumer Protection and Safety Division (CPSD) into evidence, and (4) provides guidance to the parties on the issues to be addressed in their briefs.

Respondents' Motion

On August 13, 2004, respondents' attorney Jeffrey D. Nadel faxed to the undersigned administrative law judge and the counsel for CPSD a motion for an order taking off calendar the hearing set for August 18, 2004 and August 19, 2004

in the above Order Initiating Investigation and Order to Show Cause (OII/OSC) based on the following:

1. Respondents Ronen Perez and Ford Moving & Storage, Inc., a California Corporation, withdraw the CPUC application for a household goods carrier and the subject of the underlying OII;
2. Respondents Ronen Perez and Ford Moving & Storage, Inc., a California Corporation, forego its right to proceed on the hearings calendared on this OII; and
3. Respondents Ronen Perez and Ford Moving & Storage, Inc., a California Corporation, waive any objection it may have to the documents filed by the CPUC.

On August 16, 2004, CPSD filed a response to respondents' motion stating it did not object to foregoing hearings since respondents had not filed any testimony challenging Staff's evidence and it did not object to applicants withdrawing their application because both Mr. Perez and Ford Moving & Storage, Inc. remain as respondents in this proceeding and as such should be held responsible for past illegal activities. Further, CPSD recommends that any future request for operating authority by respondents or their affiliates should be made via the formal application process and should address all issues raised in this OII/OSC.

Respondents' motion has two procedural deficiencies that this ruling will address. First, the respondents cannot withdraw their application by motion. The procedure for withdrawal of an application is for the applicant to send a letter to the Commission's Consumer Protection and Safety Division, License Section, Attn: Paul Wuerstle at our San Francisco offices. The letter should state

that applicant is withdrawing his application and should be signed by Ronen Perez, with copies to the service list in this proceeding.

The second procedural deficiency is that respondents did not file their motion in compliance with Rule 45 of the Commission's Rules of Practice and Procedure. To remedy this procedural defect, the motion is attached here as Attachment A and will be formally filed with this ruling.

Based on respondents' motion, the undersigned ALJ took the scheduled hearings off the Commission's calendar.

Evidentiary Record

The following items constitute the evidentiary record in this case and are received as exhibits:

A. CPSD's Exhibits

The following were filed and served with the Commission's OII/OSC:

Exhibit 1 – June 14, 2000 – Termination of Telephone Service – “Finding of Probable Cause” Order Signed by Judge Stephen Marcus, Superior Court, Los Angeles Judicial District.

Exhibit 2 – February 6, 2001 – Administrative Citation Forfeiture #CFH-019.

Exhibit 3 – July 1, 2003 – Criminal Complaint – Case No. 3CR02645.

Exhibit 4 – August 19, 2003 – Temporary Restraining Order and Preliminary Injunction – Superior Court, Los Angeles County.

Exhibit 5 – January 30, 2004 – Cost of Investigation – Adrienne Johnson.

Exhibit 6 – February 24, 2004 – Barbara Santa Marina's Supplemental Declaration.

Exhibit 7 – March 4, 2004 – Sting Call conducted by Adrienne Johnson.

The following rebuttal testimony was served by CPSD:

Exhibit 8 – July 21, 2004 Declaration by Barbara Santa Marina.

Exhibit 9 – July 16, 2004 Declaration of Susie Lorden with
2 attachments.

B. Respondents' Exhibit

The following declaration was served by respondents:

Exhibit 10 – July 7, 2004 Declaration of Ronen Perez

C. Briefing Instructions and Schedule

The focus of the briefs should be on the appropriate level of fines and penalties the Commission should order based on the record. As stated in the OII/OSC, the penalties could include monetary fines as well as permanent forfeiture of rights to operate as a household goods carrier in California.

In their briefs, parties should state the precise amount of the recommended fine or penalty, as well as the specific justification therefore, with specific citations to the facts of the case and to the specific statutes relied upon for imposing the fine. Parties should also address the criteria set forth in Decision (D.) 98-12-075, Appendix A, which provided for guidance in subsequent cases determining a fine.¹ That decision stated that the purpose of a fine is to effectively deter further violations by this perpetrator or others and lists the following criteria for consideration:

- The severity of the economic or physical harm;
- The utility's conduct to prevent, detect, disclose, and rectify the violation;
- The utility's financial resources;
- The public interest involved;

¹ D.98-12-075 did not specifically address the Household Goods Carrier Act, but rather, the Commission's broader statutory authority under, among other statutes, Pub. Util. Code Section 2107. However, the criteria concern fines and penalties, which are issues relevant to the instant proceeding.

- The totality of the circumstances; and
- Commission precedents.

The scoping memo issued August 12, 2004 set a schedule for opening briefs to be filed on September 2, 2004 and for reply briefs to be filed on September 13, 2004. In an August 25, 2004 electronic message to the respondent and ALJ, CPSD requested an extension of the opening date for briefs to September 9, 2004 and stated that respondents' attorney agreed to this change. Therefore, this ruling grants an extension until September 9, 2004 for the filing of opening briefs. The date for reply briefs remains September 13, 2004.

Therefore, **IT IS RULED** that:

1. Respondents' request to forego hearings is granted. Respondents' August 13, 2004 motion containing this request is at Attachment A.
2. The testimony and declarations offered by each party are identified and entered into evidence.
3. The parties shall file opening briefs on or before September 9, 2004 and reply briefs on or before September 13, 2004. The parties shall file and serve these briefs in accordance with the Commission's Rules of Practice and Procedure.

Dated August 30, 2004, at San Francisco, California.

/s/ Christine M. Walwyn
Christine M. Walwyn
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Request to Forego Hearings, Entering Exhibits, and Setting Briefing Guidelines and Schedule on all parties of record or their attorneys of record.

Dated August 30, 2004, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.